

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ROBERT WAYNE BOGGS,)
)
Petitioner,)
)
v.) 1:09CV400
) 1:02CR29-1
)
UNITED STATES OF AMERICA,)
)
Respondent.)

ORDER

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on October 28, 2009, was served on the parties in this action. Petitioner objected to the Recommendation. (Doc. 82).

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a *de novo* determination, which is in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that Respondent's motion to dismiss this action for being filed beyond the one-year limitation period (Doc. 76) is GRANTED, that Petitioner's motion to vacate, set aside or correct sentence (Doc. 73) is DENIED, and that this action is DISMISSED with prejudice. A Judgment dismissing this action will be entered contemporaneously with this Order. Finding neither a

substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

/s/ Thomas D. Schroeder
United States District Judge

December 21, 2009